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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,747	07/29/2005	Juergen Chaloupka	095309.55723US	1328
23911	7590	10/05/2007	EXAMINER	
CROWELL & MORING LLP INTELLECTUAL PROPERTY GROUP P.O. BOX 14300 WASHINGTON, DC 20044-4300			BLANKENSHIP, GREGORY A	
		ART UNIT	PAPER NUMBER	
		3612		
		MAIL DATE	DELIVERY MODE	
		10/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/518,747	CHALOUPKA ET AL.
	Examiner Greg Blankenship	Art Unit 3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on election filed 8/17/2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 16-35 is/are pending in the application.
 - 4a) Of the above claim(s) 27-30 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 16-25 and 31-35 is/are rejected.
- 7) Claim(s) 26 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 22 December 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/22/2004</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

1. Claims 27-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/17/2007.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 16-26 and 31-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 is not clearly understood because the phrase, "preferably for passenger vehicles", may be read to require the vehicle to be a passenger vehicle or the phrase may be read as a suggested construction that is not required. The phrase has been given little patentable weight since it appears to be a suggestion and not a requirement.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-21, 23-25, and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0562244 A1 in view of Uleski (6,820,921).

EP 0562244 A1 discloses a pivotally mounted storage compartment cover (2) for closing a deposit compartment. The storage compartment cover (100) can rotate about different axes of rotation , as shown in Figure 4. The two axes of rotation are locked in the closed position of the storage compartment cover (2). In reference to claims 19 and 32, a retaining device locks both axes of rotation arranged on a side wall of the deposit compartment. In reference to claims 20 and 33, release buttons (15,16) are arranged in a region of the side wall of the deposit compartment and are connected to the retaining device and interact with the retaining device to release on axis of rotation, as shown in Figure 2. In reference to claim 21, the storage compartment cover (2) has spindle stubs (11a,11b,12a,12b) arranged in a region of the axes of rotation and run along the axes of rotation. The spindle stubs extend beyond a side of the storage compartment cover to engage in the retaining device, as shown in Figure 2, to lock and/or support the storage compartment cover. However, EP 0562244 A1 does not disclose the driving device.

Uleski teaches a pivotal storage compartment cover (584) with a driving device. The driving device automatically pivots the storage compartment cover (584) about an axis of rotation in the opening direction after release of a lock. The driving device has an energy store device (522,546) arranged within the storage compartment cover (584), as shown in Figure 26. In reference to claim 17, the energy store (522,546) is charged during manual closing of the storage compartment cover (584) and is discharged during the automatic driven opening of the storage compartment cover (584). In reference to claims 18 and 31, the energy store has a spring (546) with a damping device (522) so that the opening movement takes place in a damped manner, as disclosed on lines 1-5 of column 16.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a driving device with two energy stores within the storage compartment cover and in the region of the sidewalls cover of EP 02562244 A1., as taught by Uleski, such that one energy store is connected to each axis of rotation of EP 02562241 A1 to automatically open storage compartment cover when a user requires access to the storage compartment.

6. Claims 22 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of EP 0562244 A1 and Uleski (6,820,921), in view of James (5,067,755).
EP 0562244 A1, as modified, does not disclose the gear mechanism for the spindle stubs. James discloses a gear mechanism for driving a two spindle stubs (152) which are displaced linearly on the storage compartment cover along a single axis. Each spindle stub (152) has at an end facing the other spindle stub a rack (142,144) that mesh via a toothed wheel (140) with the opposing spindle stub in such a manner that the spindle stubs move in opposed directions.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the spindle stubs with racks that mesh via a toothed wheel, as taught by James, for the spindle stubs of EP 0562244 A1 to provide a more secure locking system.

Allowable Subject Matter

7. Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Blankenship whose telephone number is 571-272-6656. The examiner can normally be reached on 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 571-272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gab
September 28, 2007

Gro 9/28/07


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9/28/07